

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:

**PREFERRED CAPITAL FUNDING OF)
NEVADA, LLC,)**

Plaintiff,)

v.)

**PHILLIP TIMOTHY HOWARD,)
JEFF KAHN,)
HOWARD & ASSOCIATES, P.A.)**

Defendants)

Case No.: 1:19-cv-06245

JURY DEMAND

Damages: \$5,843,354.20 plus punitive

JOINT STATUS REPORT

The Parties hereby file this Joint Status Report in Compliance with the Third Amended General Order 20-0012:

A. The progress of discovery:

The Parties have exchanged written discovery. Plaintiff is sending out third party subpoenas to obtain medical and financial information. After response to these requests Plaintiff may need to seek additional written discovery from Defendants. After receipt of third-party subpoenas Plaintiffs will need depositions of the parties, some third parties and experts. Defendants Phillip Timothy Howard and Howard & Associates, P.A., ("Defendants"), will object to third party subpoenas to the extent that they seek privileged or confidential law firm or attorney-client privileged information. Defendants will have no objection to confidential and protected medical records that Defendants have previously provided to Plaintiff.

Defendants have submitted three rounds of interrogatories, documents and admissions discovery requests, many with inadequate answers from Plaintiff, such as admitting the undisputable documents that verify that Dr. Koberda is NFL Concussion MAF certified and is a board certified neurologist and that several of the borrowers listed have been paid by the NFL Concussion Settlement, yet are listed as loans outstanding, and what Plaintiff has done to collect on those loans and how there can be damages from NFL Concussion Claims that are paid, and will be preparing and submitting motions to compel. Plaintiff denies this allegation and contends it has properly responded to discovery and will respond to any Motion to Compel.

Over the next 10 working days, Defendants will be sending subpoenas to third-party lenders that relied on the same expert reports and are collecting at the same ratios as Plaintiff. Also verifying that Plaintiff and all advance lenders have the option to charge full contract interest as the

U.S. Circuit Court for the Second Judicial Circuit ruled that the District Court of the Eastern District of Pennsylvania was not able to preempt the NFL Advance contracts and contract return amounts entered into, and have no cause of action for the claims found in the Amended Complaint in this action.

B. The status of briefing on any unresolved motions:

Plaintiff is intending to file a Motion Seeking Qualified Protective Order to obtain the medical records of the NFL clients in the lawsuit as well as related concussion patients seen by the doctors used by the Defendants. Plaintiff intends to file this in the next seven days. There will need to be a briefing schedule if Defendants intend to object.

Defendants will be filing Motions to Compel as discussed above. Defendants will be filing a Motion for Summary Judgment at the appropriate time.

C. Settlement efforts.

NONE

Defendants propose that over the next 10 working days they will accept dismissal with prejudice and will not charge attorney's fees and costs for defending against this frivolous action.

D. Provide an agreed proposed schedule (or alternative proposals) for the next 45 days:

Plaintiffs believe that due to the need for the medical records during the next 45 days it will still be engaging in written discovery.

Defendants believe that discovery is ongoing and will still be in discovery during the next 45 days, if not settled earlier.

E. Provide an agreed proposed revised discovery and dispositive motion schedule (or alternative proposals) in cases where the current schedule needs revision:

See Letter D. Above.

F. Request any agreed action that the Court can take without a hearing:

The Court can rule on the Motion Seeking a Qualified Protective Order without hearing.

G. State whether the parties believe a telephonic hearing with the judge is necessary and time urgent, and, if so, identify the issue that warrants discussion.

None needed at this time.

Respectfully submitted,

PREFERRED CAPITAL FUNDING OF NEVADA

Amy Galvin Grogan (ARDC#6229364)
Katherine Schoon (ARDC # 6294666)
GROGAN HESSE & UDITSKY, P.C.
340 W Butterfield Rd., Suite 2A
Elmhurst, IL 60126
Tel. No. (630) 833-5533
agrogan@ghulaw.com
kschoon@ghulaw.com

TIM HOWARD and HOWARD AND ASSOCIATES P.A.

Phillip Timothy Howard, Senior Partner
Howard and Associates, P.A.
1415 Piedmont Dr. E Suite 5
Tallahassee, FL 32308-7944
Tim@HowardJustice.com

Howard and Associates, P.A.
c/o Phillip Timothy Howard, Sr Partner
1415 Piedmont Dr. E Suite 5
Tallahassee, FL 32308-7944
Tim@HowardJustice.com

JEFF KAHN

Warren B. Kahn
Law Offices of Warren B. Kahn
150 River Rd. Bldg 0-2B
Montville, NJ
warren@wbkahn.com